

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

)	Chapter 11
)	
In re:)	Case No. 01-01139 (JKF)
)	
W. R. GRACE & CO., et al.,)	(Jointly Administered)
)	
Debtors.)	RE: Docket No. 5839
)	
)	Objection Deadline: July 12, 2004
_____)	
		Hearing Date: To Be Determined

**LIMITED OBJECTION OF THE OFFICIAL COMMITTEE OF ASBESTOS
PROPERTY DAMAGE CLAIMANTS TO APPLICATION OF DAVID T. AUSTERN,
FUTURE CLAIMANTS' REPRESENTATIVE, FOR AUTHORIZATION TO EMPLOY
PHILLIPS, GOLDMAN & SPENCE, P.A. AS LOCAL BANKRUPTCY COUNSEL TO
THE FUTURE CLAIMANTS' REPRESENTATIVE**

The Official Committee of Asbestos Property Damage Claimants (the "PD Committee"), by and through undersigned counsel, hereby files this Limited Objection (the "Limited Objection") to the Application of David T. Austern, Future Claimants' Representative, for Authorization to Employ Phillips, Goldman & Spence, P.A., as Local Bankruptcy Counsel to the Future Claimants' Representative (the "Application"), filed by David T. Austern, the Future Claimants' Representative (the "FCR") in the bankruptcy cases of the above-captioned debtors (the "Debtors"). In support hereof, the PD Committee respectfully states as follows:

Limited Objection

1. On April 2, 2001, each Debtor filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The Debtors continue to operate their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. On April 12, 2001, the UST appointed the PD Committee, the Official Committee of Unsecured Creditors (the "Commercial Committee") and the Official Committee of Asbestos Personal Injury Claimants (the "PI Committee"). Thereafter, the UST appointed the Official Committee of Equity Holders.

3. On April 19, 2004, the Debtors filed an application for the appointment of a representative of future claimants, without nominating a specific person to serve in such capacity. Instead, the Debtors proposed three individuals¹ and asked the Court to select the representative. In their application, the Debtors provided a matrix of the various positions each constituency had in respect of the proposed candidates, which reflected the lack of unanimity amongst the constituents.

4. The PD Committee objected to the appointment of any of the three candidates as the FCR, including Mr. Austern. The PD Committee's objection to Mr. Austern's appointment as the FCR was based upon, among other grounds, that his current position as the FCR in the Combustion Engineering bankruptcy created a conflict that prevents him from serving as the FCR in these cases.

5. On May 24, 2004, over the objections of the PD Committee, the PI Committee and certain insurers,² the Court entered an Order appointing David T. Austern as the FCR. On June 11, 2004, the PD Committee filed its Notice of Appeal of the Order.³

¹ The Debtors nominated David T. Austern, Eric Green and Dean M. Traftlet.

² The objecting insurers were Federal Insurance Company and Royal & SunAlliance (the "Objecting Insurers").

³ In addition, each Objecting Insurer also filed a Notice of Appeal of the Order.

\\74817\\15537\\# 683925 v 1

6. On June 21, 2004, the FCR filed the Application seeking to retain Phillips, Goldman & Spence, P.A., ("Phillips") as local bankruptcy counsel. The PD Committee does not dispute the FCR's right to retain counsel and other professionals under the Bankruptcy Code. However, in light of the pending appeals of the Order appointing Mr. Austern as the FCR, the PD Committee reserves its rights in respect of the retention of Phillips, pending the outcome of the appeals.⁴

WHEREFORE, the PD Committee respectfully requests that the Court sustain this Limited Objection and for such other relief that the Court deems appropriate.

Wilmington, Delaware
Dated: July 12, 2004

Respectfully submitted,

BILZIN SUMBERG BAENA
PRICE & AXELROD LLP
200 South Biscayne Boulevard
Suite 2500
Miami, Florida 33131-2336
Telephone: (305) 374-7580

Scott L. Baena (Admitted Pro Hac Vice)
Jay M. Sakalo (Admitted Pro Hac Vice)

-and-

⁴ By this Limited Objection, the PD Committee does not mean to suggest that Phillips is not highly competent to serve as bankruptcy counsel to the FCR, to the contrary.
\\74817\\15537\\# 683925 v 1

FERRY JOSEPH & PEARCE, P.A.
824 Market Street, Suite 904
P.O. Box 1351
Wilmington, Delaware 19899
Telephone: (302) 575-1555

By: Lisa L. Coggins
Theodore J. Tacconelli (DE Bar No. 2678)
Lisa L. Coggins (DE Bar No. 4234)

CO-COUNSEL FOR THE OFFICIAL
COMMITTEE OF ASBESTOS PROPERTY
DAMAGE CLAIMANTS